

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SANDRA W. BEAUCHAMP,
individually and on behalf of a class,

Plaintiff,

vs.

FINANCIAL RECOVERY SERVICES, INC.

Defendant.

FILED
U.S. DISTRICT COURT
2010 JUN 22 P 3 16
S.D. OF N.Y. W.P.

'10 CIV 04864

COMPLAINT - CLASS ACTION

JUDGE ROBINSON

INTRODUCTION

1. Plaintiff brings this action to secure redress against unlawful credit and collection practices engaged by defendant Financial Recovery Services, Inc. Plaintiff alleges violation of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 et seq. ("FDCPA"). The FDCPA broadly prohibits unfair or unconscionable collection methods; conduct which harasses, oppresses or abuses any debtor; and any false, deceptive or misleading statements, in connection with the collection of a debt; it also requires debt collectors to give certain information. 15 U.S.C. §§1692d, 1692e, 1692f and 1692g.

JURISDICTION AND VENUE

2. This Court has jurisdiction under 28 U.S.C. §§ 1331, 1337 and 15 U.S.C. §1692k (FDCPA).

3. Venue and personal jurisdiction over defendant in this District is proper because defendant's collection activities impacted plaintiff here and because defendant transacts business here.

PARTIES

4. Plaintiff Sandra W. Beauchamp is an individual who resides in Mount Vernon, New York.

5. Defendant Financial Recovery Services, Inc. is a Minnesota Foreign Business Corporation doing business in New York.

FACTS

6. On or about April 26, 2010, plaintiff was mailed the collection letter attached as Exhibit A. Plaintiff received it in the ordinary course of mail.

7. Exhibit A sought to collect a debt incurred for personal, family or household use and not for business purposes.

8. Exhibit A fails to state the amount of the debt within the meaning of 15 U.S.C. § 1692g(a)(1), by stating “ Interest, late charges, and other charges may or may not be applicable to this account. They may vary from day to day and thus the amount due on the day you pay may be greater. Hence if you pay the amount shown above, an adjustment may be necessary after we receive your check.” *Weiss v. Zwicker & Associates, P.C.*, 08-cv-3041 (ADS) (WDW).

9. Exhibit A is, on information and belief, a form letter.

VIOLATIONS ALLEGED

10. Exhibit A violates 15 U.S.C. §§1692e, 1692e(10), 1692g, 1692g(a)(1) by failing to state the amount of the debt which is due and owing and by implying that payment sooner rather than later will be more economic.

11. Section 1692e provides:

§1692e. False or misleading representations [Section 807 of P.L.]

A debt collector may not use any false, deceptive, or misleading representation or means in connection with the collection of any debt. Without limiting the general application of the foregoing, the following conduct is a violation of this section: ...

(10) The use of any false representation or deceptive means to collect or attempt to collect any debt or to obtain information concerning a consumer....

Section 1692g

1692g(a)(1) The amount of the debt.

CLASS ALLEGATIONS

12. Pursuant to Fed.R.Civ.P. 23(a), plaintiff brings this claim on behalf of a class.
13. The class consists of (a) all natural persons (b) who were sent a letter as Exhibit A (c) seeking to collect a debt (d) on or after a date one year prior to the filing of this action and ending 20 days after the filing of this action.
14. The class is so numerous that joinder is impracticable.
15. On information and belief, there are more than 50 natural persons who were sent a letter similar to Exhibit A on or after a date one year prior to the filing of this action and ending 20 days after the filing of this action.
16. There are questions of law and fact common to the members of the class, which common questions predominate over any questions that affect only individual class members. The predominant common questions are:
 - a. Whether the debt collector sent the consumer a written notice containing the amount of the debt.
 - b. Whether defendant overshadowed the thirty day validation notice by claiming that payment of the amount stated in the collection letter may not function as satisfaction of the purported debt.

c. Whether the letter violate the FDCPA.

17. Plaintiff's claims is typical of the claims of the class members. All are based on the same factual and legal theories.

18. Plaintiff will fairly and adequately represent the interests of the class members. Plaintiff has retained counsel experienced in consumer credit and debt collection abuse cases.

19. A class action is superior to other alternative methods of adjudicating this dispute. Individual cases are not economically feasible. The nature of the wrong depends on the deception of the consumer, so it is unlikely to be detected or remedied without a class action.

WHEREFORE, plaintiff requests that the Court enter judgment in favor of plaintiff and the class and against defendant for:

- a. Statutory damages;
- b. Attorney's fees, litigation expenses and costs of suit;
- c. Declaratory relief finding the collection letter violates the FDCPA;
- d. Such other or further relief as the Court deems proper.

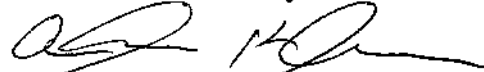
KLEINMAN LLC



Abraham Kleinman (AK-6300)
626 RXR Plaza
Uniondale, New York 11556-0626
Telephone (516) 522-2621
Facsimile (888) 522-1692
E-Mail: akleinman@kleinmanllc.com

JURY DEMAND

Plaintiff hereby demands trial by jury.



Abraham Kleinman (AK-6300)

EXHIBIT A

FINANCIAL RECOVERY SERVICES, INC.

DEPT 813 7824692010049
PO BOX 4115
CONCORD CA 94524

P.O. Box 385908
Minneapolis, MN 55438-5908
1-866-522-9390

Return Service Requested

April 26, 2010



ATZ497
SANDRA W BEAUCHAMP
PO BOX 3033
MOUNT VERNON NY 10553-3033

CLIENT: HSBC CARD SERVICES
CURRENT CREDITOR: HSBC
REGARDING: HSBC
ACCOUNT NUMBER: xxxxxxxxxxxx9611
BALANCE: \$567.30

THE ACCOUNT LISTED ABOVE HAS BEEN ASSIGNED TO THIS AGENCY FOR COLLECTION. AS OF THE DATE OF THIS LETTER, YOU OWE \$567.30. INTEREST, LATE CHARGES, AND OTHER CHARGES MAY OR MAY NOT BE APPLICABLE TO THIS ACCOUNT. IF SOME OR ALL OF THESE ARE APPLICABLE TO YOUR ACCOUNT, THEY MAY VARY FROM DAY TO DAY AND THUS THE AMOUNT DUE ON THE DAY YOU PAY MAY BE GREATER. HENCE, IF YOU PAY THE AMOUNT SHOWN ABOVE, AN ADJUSTMENT MAY BE NECESSARY AFTER WE RECEIVE YOUR CHECK. IN WHICH EVENT WE WILL INFORM YOU BEFORE DEPOSITING THE CHECK FOR COLLECTION. FOR FURTHER INFORMATION, WRITE THE UNDERSIGNED OR CALL 1-866-522-9390.

WE ARE AUTHORIZED TO OFFER YOU THE FOLLOWING OPPORTUNITIES.

1. ☐ MY ACCOUNT WILL BE PAID IN FULL BY A ONE-TIME PAYMENT EQUAL TO THE BALANCE, OR
2. ☐ MY ACCOUNT WILL BE SETTLED IN FULL BY A ONE-TIME PAYMENT EQUIVALENT TO 55.00% OF THE ABOVE REFERENCED BALANCE IN THE AMOUNT OF \$312.01, OR
3. ☐ MY ACCOUNT WILL BE SETTLED IN FULL BY THREE EQUAL CONSECUTIVE MONTHLY PAYMENTS EQUIVALENT TO 70.00% OF THE ABOVE REFERENCED BALANCE FOR A TOTAL REPAYMENT OF \$397.11, OR
4. ☐ I WILL MAKE A MONTHLY PAYMENT THAT IS AFFORDABLE TO ME AT THIS TIME AS FOLLOWS. I WILL PAY \$_____ MONTHLY UNTIL MY ACCOUNT IS PAID IN FULL OR ANOTHER AGREEMENT IS NEGOTIATED. PAYMENTS WILL BE SENT ON OR BEFORE THE _____ OF EACH MONTH.

PLEASE MARK YOUR CHOICE WITH AN "X" IN THE SPACE PROVIDED AND FORWARD WITH YOUR PAYMENT TO THE ADDRESS LISTED BELOW. YOU MAY CONTACT THE REPRESENTATIVE LISTED BELOW WITH ANY QUESTIONS. WE ARE NOT OBLIGATED TO RENEW OFFERS 2 THROUGH 4 ABOVE. THE OPPORTUNITIES LISTED ABOVE DO NOT AFFECT YOUR RIGHTS DESCRIBED BELOW.

UNLESS YOU NOTIFY THIS OFFICE WITHIN 30 DAYS AFTER RECEIVING THIS NOTICE THAT YOU DISPUTE THE VALIDITY OF THIS DEBT OR ANY PORTION THEREOF, THIS OFFICE WILL ASSUME THIS DEBT IS VALID. IF YOU NOTIFY THIS OFFICE IN WRITING WITHIN 30 DAYS OF RECEIVING THIS NOTICE THAT YOU DISPUTE THE VALIDITY OF THIS DEBT OR ANY PORTION THEREOF, THIS OFFICE WILL OBTAIN VERIFICATION OF THE DEBT OR OBTAIN A COPY OF A JUDGMENT AND MAIL YOU A COPY OF SUCH JUDGMENT OR VERIFICATION. IF YOU REQUEST THIS OFFICE IN WRITING WITHIN 30 DAYS AFTER RECEIVING THIS NOTICE THIS OFFICE WILL PROVIDE YOU WITH THE NAME AND ADDRESS OF THE ORIGINAL CREDITOR, IF DIFFERENT FROM THE CURRENT CREDITOR.

SINCERELY,

JOEL BIEBIGHAUSER
ACCOUNT MANAGER
TOLL FREE: 1-866-522-9390

THIS IS AN ATTEMPT TO COLLECT A DEBT. ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE. THIS COMMUNICATION IS FROM A DEBT COLLECTOR. SEE REVERSE SIDE FOR IMPORTANT INFORMATION.

Office hours are: Monday - Thursday, 7am to 8pm, Friday 7am to 5pm, Saturday 7am to noon.

DETACH AND RETURN THIS PORTION OF THIS NOTICE WITH YOUR PAYMENT

NOTE: ANY CHECK RETURNED FOR INSUFFICIENT FUNDS OR ACCOUNT CLOSED WILL BE ASSESSED A \$15.00 CHARGE.

AMOUNT ENCLOSED: _____ FRS File#: ATZ497

HOME PHONE: _____

WORK PHONE: _____

PLEASE CHECK YOUR PAYMENT OPTION BELOW

- ☐ PAID IN FULL - \$567.30
☐ SETTLED IN FULL - \$312.01
☐ SETTLED IN 3 EQUAL PAYMENTS TOTALING - \$397.11
☐ MONTHLY PAYMENT PLAN OF:
 \$_____ BY _____ OF EACH MONTH
 TOLL FREE: 1-866-522-9390

FINANCIAL RECOVERY SERVICES, INC.
P.O. BOX 385908
MINNEAPOLIS, MN 55438-5908



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PO BOX 3033
MOUNT VERNON NY 10553-3033

